

Serial No. 10/044,114	Response to Office Action	Examiner: Reilly, Sean M. Group Art Unit: 2153
<u>REMARKS</u>		
Regarding the amendments: Claims 1-35 have been canceled in favor of new claims 36-63.		All of new claims 22-40 include a limitation of "computer readable instructions ... providing the function of executing policy upon recognition of particular states of enterprise devices" Support for this limitation may be found in paragraph 0010 (or paragraph 0009 as published.) Applicants believe that the execution of policy on particular states of enterprise devices in a reporting and maintenance system is novel and unobvious over Barker and the other cited prior art.
Applicants have amended the abstract paragraph to contain less than 150 words.		
Applicants have amended the CROSS-REFERENCE TO RELATED APPLICATIONS paragraph marked 0002 to reference related applications 10/043,426 and 10/044,632.		Applicants now address each item of the office action.
1. The effective filing date for the subject matter of the pending claims is noted by the Office to be 1/10/2001. 2. The abstract is objected to because it contains more than 150 words. Applicants have amended the abstract in compliance with this requirement.		3. The specification is objected to for not cross-referencing co-pending applications 10/043426 and 10/044632.
	15/21	

Serial No. 10/044,114

Response to Office Action**Examiner: Reilly, Sean M.
Group Art Unit: 2153**

Applicants have amended the specification as required.

4. Claims 1-35 are provisionally rejected under obviousness-type double patenting over claims 1-29 of Application No. 10/043,426.

Applicants have canceled claims 1-35, rendering this provisional rejection moot. Applicants have provided new claims 36-63 which include at least one element believed to be unobvious over the claims of Application No. 10/043,426.

5. Claims 1-21 are provisionally rejected under obviousness-type double patenting over claims 1-21 of Application No. 10/044,632.

Applicants have canceled claims 1-35, rendering this provisional rejection moot. Applicants have provided new claims 36-63 which include at least one element believed to be unobvious over the claims of Application No. 10/044,632.

6. Applicants understand that the rejections numbered 4 and 5 are provisional.

7. The Office gives reasoning for the rejections numbered 4 and 5.

Applicants understand these arguments.

8. The Office gives reasoning for the rejections numbered 4 and 5 with respect to claim 35.

Applicants understand these arguments and appreciate the careful consideration of the Office.

9. Claims 1, 4-9, 19-25, 27 and 29-34 are rejected under 35 U.S.C. § 102(e) with allegations that

Serial No. 10/044,114

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

U.S. Pat. No. 6,363,421 ("Barker") anticipates the elements of these claims.

10. The Office offers particular references in Barker to support the rejection numbered 9 for claims 1, 4-9, 19-25, 27 and 29-34.

Applicants disagree. Applicants do not believe that Barker discloses a central information system, a superintendent system, a notification channel, or the upgrading of enterprise devices through a reporting and maintenance system. Even so, applicants have canceled these claims rendering the arguments moot.

11. Claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barker, and presumably over official notice.

12. For claims 2 and 3, the Office admits that Barker fails to disclose sending messages in a preferential order by assigning a priority to the messages. The Office relies on an alleged disclosure in Barker of overload control (in col. 34, lines 51-60 and col. 29, lines 41-53) and alleges that it would have been obvious to prioritize messages as a form of overload control.

Applicants point to the following instructions in the Manual of Patent Examining Procedure:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2142, page 2100-124.

Applicants traverse this rejection on grounds that all the claim limitations are not taught by the

Serial No. 10/044,114

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

cited references, and thus a *prima facie* case of obviousness is not stated by the arguments of rejection. Particularly, Barker does not disclose the (1) the assignment of priority to messages in a reporting and maintenance system and (2) the transmission of messages in a preferential order anywhere in an enterprise management system.

First, Barker does disclose a precedence for messages (col. 34 lines 54-59), however this precedence is used to throttle trap messages. This is understood to mean that trap messages are discarded or dropped according to Barker's preference should the message rate exceed the specified maximum. However, this does not disclose a preferential order of message transmission.

Second, the prioritization is made by an agent residing on a network element in Barker's system, and not by a non-network element device as required by those claims. By performing prioritization between a network element and a destination system, network elements supporting only a standard protocol (such as SNMP) can be supported without modification.

Claims 2 and 6 have been canceled, rendering this rejection moot.

13. Claims 10-18 are rejected under § 103(a) as being unpatentable over Barker, U.S. Pat. No. 6,714,977 ("Fowler") and official notice (i.e. "the knowledge of one of ordinary skill in the art.")

14. The Office offers particular references in Barker to support the rejection numbered 13 for claims 10-18.

Applicants disagree, at least for reasons stated above, and further that applicants do not believe that all the claim elements are disclosed by the references or that a motivation to combine the references is absent. However, applicants have canceled these claims, rendering the arguments moot.

Serial No. 10/044,114	Response to Office Action	Examiner: Reilly, Sean M. Group Art Unit: 2163
		15. Claim 26 is rejected under § 103(a) as being unpatentable over Barker and "Unicenter TNG for Dummies" ("Sampson.")
		16. The Office offers particular references in Barker to support the rejection numbered 15 for claim 26.
		Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled this claim, rendering the arguments moot.
		17. Claim 28 is rejected under § 103(a) as being unpatentable over Barker and official notice.
		18. The Office offers particular references in Barker to support the rejection numbered 17 for claim 28.
		Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.
		19. Claim 35 is rejected under § 103(a) as being unpatentable over Barker, Fowler, Sampson and official notice.
		20. The Office offers particular references in Barker to support the rejection numbered 19 for claim 35.
		Applicants disagree with this rejection, at least for reasons stated above. Applicants have canceled these claims, rendering the arguments moot.
		21. Applicants take note of the prior art made of record not relied upon.

Serial No. 10/044,114	Response to Office Action	Examiner: Reilly, Sean M. Group Art Unit: 2153
		22. Applicants take note that the rejection was made non-final.
		For rejections relying upon official notice, applicants challenge the Office under MPEP § 2143.04 "C" to provide documentary support, unless those rejections are withdrawn.
		Although applicants have amended the original claims, applicants maintain that the original claims are patentable at least by reasons set forth by the arguments above. Applicants reserve the right to prosecute these claims and their subject matter in this or subsequent continuing applications, and do not disclaim those claims in any way.
		The applicant's representative would be grateful to be contacted at the below telephone number, should there be any remaining questions.
		Respectfully submitted this <u>14</u> day of July, 2005.
		 Everett D. Robinson Reg. No. 50,911 PARSONS, BEHLE & LATIMER 201 South Main Street, Suite 1800 P.O. Box 45898 Salt Lake City, UT 84145-0898 (801) 536-6724
		20/21

Serial No. 10/044,114

Response to Office Action

Examiner: Reilly, Sean M.
Group Art Unit: 2153

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21/21

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